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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,940	02/05/2004	John B. Matthews	4399	7957
7590	04/06/2006		EXAMINER	
CAROTHERS AND CAROTHERS			MANAF, ABDUL	
Suite 500			ART UNIT	PAPER NUMBER
445 Fort Pitt Blvd.				3635
Pittsburgh, PA 15219			DATE MAILED: 04/06/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/773,940	MATTHEWS, JOHN B.
	Examiner Abdul Manaf	Art Unit 3635

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 05 February 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>02/05/2004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Patent No. 5,501,044 to Janesky in view of the U.S. Publication No. 20,020,152,696 to Ruiz et al.**

In regard to claims 1 and 7, Janesky discloses a ground water drainage conduit system 10 supported on a footing 27 with a concrete floor 25 having a peripheral edge 24 supported on the footing 27, the conduit system comprising a vertical wall portion 15 disposed between the wall 23 and the floor and having a rear surface 16 with spacer protrusions 32 for engagement with the wall whereby a narrow drainage passage (see Fig. 1) is provided there between, and dimensioned for extension above the floor; an independent horizontal elongate conduit portion 11 positioned adjacent and along

vertical wall portion and under the floor, hand having apertures 18 there along. Janesky does not disclose an adhered layer of insulation between upper exterior surface of conduit portion and the floor. However, Ruiz discloses a conduit 22 spaced from the wall 14 (in the same fashion as claimed) layer of insulation 34 between upper exterior surface of conduit portion and the floor whereby condensation is prevented from forming on the floor (see Fig. 4; paragraph 0032). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Janesky by using an adhered layer of insulation between upper exterior surface of conduit portion and the floor for preventing condensation from forming on the floor (by filtering water down to the conduit).

In regard to claim 2, Janesky discloses a ground water drainage conduit system wherein a vertical wall portion 15 is resting on the footing 27 and disposed between horizontal conduit portion 11 and a base portion of the wall 23, wherein a vertical wall portion is having spaced apertures 18 along a bottom edge.

In regard to claims 3 and 4, Janesky discloses a ground water drainage conduit system wherein a vertical wall portion 15 having spacer protrusions 32 providing a narrow drainage passage (between the wall 23 and the conduit) rests on top of a horizontal conduit portion (see Fig. 1).

In regard to claim 5, Janesky discloses a ground water drainage conduit system wherein a horizontal conduit portion is basically rectangular in cross section (column 3, line 37) with the longer conduit walls thereof running horizontally, and having a corner 29 thereof chamfered with apertures 18. However, Janesky does not disclose a

second diagonally opposed corner having chamfered with apertures. It would have been a matter of design choice to one of ordinary skill in the art to have a second diagonally opposed corner having chamfered with apertures for additional water intake to the conduit in order to prevent a flood during a floor wash (with water).

In regard to claim 6, Janesky discloses a ground water drainage conduit system wherein spacer protrusions 32, 33 extend from an exterior vertical side surface of a conduit portion (see Fig. 2).

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdul Manaf whose telephone number is 571-272-1476. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AM *A.M.*

Application/Control Number: 10/773,940

Art Unit: 3635

03/31/2006

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N. Slack  
Primary